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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,751	02/11/2002	Robert J. Smith	2103-020242	5593

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EXAMINER

NGO, LIEN M

ART UNIT PAPER NUMBER

3727

DATE MAILED: 12/01/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/683,751

Applicant(s)

SMITH, ROBERT J.

Examiner

LIEN TM NGO

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 19-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 19-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the angled portion has a pitch extending in a same direction as the internal thread in claims 1, and the rib is thicker than the thickness of the sidewall in claim 29 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-9 and 19-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 6 and 28 are indefinite because it cannot be determined what is required for "a one-way lead-in thread".

Claims 19 and 24 are indefinite because it cannot be determined what is required for "hoop-like characteristics".

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 4, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Kelly (5,727,705). Kelly discloses, in figs. 1 and 3, a container closure comprising a tamper evident portion having leaders 7 extending across a score line to a lower band 3, and the lower band include a substantially continuous internal projection 5 having an angled portion. Because the projection 5 is angled, a one-way in thread is formed by the angled portion. The closure comprises threads 2 having a pitch (a slope) direction inwardly from the closure wall, and the projection pitch (slope) having a direction inwardly from the closure wall. Therefore the one-way lead-in thread formed by the angled portion has a pitch extending in a same direction as the internal thread.

6. Claims 19-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Hock et al. (6,399,170). Hock discloses, in fig.2, closure comprising a substantially continuous internal rib extending inwardly from the side structure away from the top of the closure and having a length-to-width ratio of at least one and one half. The rib is substantially rectangular in cross-section.

7. Claims 1-3, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Franchet et al. (5,648,037). Franchet et al. disclose, in fig. 1, a container closure comprising a tamper evident portion having leaders 4 extending across a score line to a lower band 3, and the lower band include a substantially continuous internal projection 13 having an angled portion 13a extending for about 90 degrees of the circumference and including a rounded end. Because the projection 13 is angled, a one-way in thread is formed by the angled portion. The closure comprises threads 21 having a pitch (a slope) direction inwardly from the closure wall, and the projection pitch (slope) having a direction inwardly from the closure wall. Therefore the one-way lead-in thread formed by the angled portion has a pitch extending in a same direction as the internal thread 21.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 4-6, 9 and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hock et al. in view of Kelly.

Hock et al. do not disclose the tamper evident portion including a plurality of leaders.

Kelly teach a tamper evident portion including a plurality of leaders 4

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the Hock et al. tamper evident portion with leaders, as taught by Kelly, in order to connect the tamper evident portion to the closure body.

In regard to claim 29, Hock et al. in view of Kelly does not disclose the rib being thicker than the thickness of the sidewall. It would have been an obvious matter of design choice to make the rib of Hock et al. in view of Kelly being thicker than the thickness of the sidewall, since such modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

***Response to Arguments***

10. Applicant's arguments with respect to claims 1-9 and 19-29 have been considered but are moot in view of the new ground(s) of rejection as pointed out in the rejections above.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Parrinello, Ekkert, and Gregory teach tamper evident bands having angled protrusions.

**Conclusion**

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 703-305-0294. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LEE YOUNG can be reached on 703-308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-305-3579.

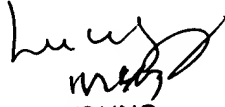

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Lien Ngo

November 19, 2003



LEE YOUNG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700